

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 109

March 22, 1995, 2:01 p.m.
Page S-4323 Temp. Record

LINE-ITEM VETO/Definition of Targeted Tax Benefit

SUBJECT: Legislative Line Item Veto Act of 1995 . . . S. 4. McCain motion to table the Bradley amendment No. 403 to the Dole substitute amendment No. 347.

ACTION: MOTION TO TABLE AGREED TO, 50-48

SYNOPSIS: Pertinent votes on this legislation include Nos. 110-115.

As reported, S. 4, the Legislative Line Item Veto Act of 1995, will grant the President enhanced power to rescind spending in appropriations bills, and direct (generally entitlement) spending bills. Rescissions would remain in effect unless Congress passed a disapproval resolution and, if necessary, overrode a presidential veto by the usual two-thirds margin in both Houses.

The Dole substitute amendment would replace the provisions of S. 4 with provisions that would mandate the separate enrollment as bills of line items in all spending bills, in all bills containing new or expanded direct spending programs, and in all bills containing targeted tax benefits.

The Bradley amendment to the Dole substitute amendment would change the definition given for the term "targeted tax benefit" to mean any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. However, the term would not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status. (The Dole substitute amendment would define the term to mean any provision that the Joint Tax Committee estimated would lose revenue within the periods specified in the most recently adopted budget resolution and that had the practical effect of providing more favorable tax treatment to a particular taxpayer or limited group of taxpayers when compared with other similarly situated taxpayers.)

Debate was limited by unanimous consent. Following debate, Senator McCain moved to table the Bradley amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

(See other side)

YEAS (50)		NAYS (48)			NOT VOTING (2)	
Republicans (50 or 94%)	Democrats (0 or 0%)	Republicans (3 or 6%)	Democrats (45 or 100%)		Republicans (1)	Democrats (1)
Abraham	Hatfield	Jeffords	Akaka	Inouye	Shelby ⁻²	Heflin ⁻²
Ashcroft	Helms	Packwood	Baucus	Johnston		
Bennett	Hutchison	Simpson	Biden	Kennedy		
Bond	Inhofe		Bingaman	Kerrey		
Brown	Kassebaum		Boxer	Kerry		
Burns	Kempthorne		Bradley	Kohl		
Campbell	Kyl		Breaux	Lautenberg		
Chafee	Lott		Bryan	Leahy		
Coats	Lugar		Bumpers	Levin		
Cochran	Mack		Byrd	Lieberman		
Cohen	McCain		Conrad	Mikulski		
Coverdell	McConnell		Daschle	Moseley-Braun		
Craig	Murkowski		Dodd	Moynihan		
D'Amato	Nickles		Dorgan	Murray		
DeWine	Pressler		Exon	Nunn		
Dole	Roth		Feingold	Pell		
Domenici	Santorum		Feinstein	Pryor		
Faircloth	Smith		Ford	Reid		
Frist	Snowe		Glenn	Robb		
Gorton	Specter		Graham	Rockefeller		
Gramm	Stevens		Harkin	Sarbanes		
Grams	Thomas		Hollings	Simon		
Grassley	Thompson			Wellstone		
Gregg	Thurmond					
Hatch	Warner					

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

Under the Dole substitute amendment, the President will be given the right to line-item veto tax loopholes that will cause a loss of revenue in any of the years covered by the most recently passed budget resolution. Budget resolutions cover 5-year periods. The Bradley amendment would remove the reference to budget resolutions, making it possible for the President to line-item veto any tax loophole that would cause a loss of revenue in a year, in 5 years, in 10 years, or ever. We agree with this change, and would happily support the Bradley amendment if all it did was remove the time limitation.

However, the amendment would also change the definition for the term "targeted tax benefit." We understand that the amendment's sponsors consider this change to be only a clarification, but we believe that it is substantive and insupportable. The Bradley amendment would define a "targeted tax benefit" as being any provision that applied different tax treatment to a limited class of taxpayers, with three exclusions--income, number of dependents, and marital status. Any other differential treatment in the tax code for any reason would be considered a targeted tax expenditure. This definition is extremely broad. Under the Bradley amendment, President Clinton's proposal to create a special tax deduction for college education expenses would be covered, as would any other benefit that went to any other limited class of taxpayers, such as retirees, the disabled, survivors of a deceased parent or spouse, veterans, foster parents, farmers, homeowners, or small business owners.

Unlike the pending amendment, the Dole substitute definition of a targeted tax benefit will be preferential tax treatment for one taxpayer or a group of taxpayers within a group of similarly situated taxpayers. This definition more accurately represents our views. Therefore, we will support the motion to table the Bradley amendment, but we would be pleased to consider a removal of the time limitation if it is offered as a separate amendment.

Those opposing the motion to table contended:

Argument 1:

We are gratified that our colleagues agree with us that there should not be a time limitation on considering the costs of tax expenditures. If costs of expenditures are only considered in the first 5 years that they are in effect, then Members will be tempted to pass measures that may result in revenue increases in those years, but that may cost billions of dollars in the outyears. Examples of such measures include backloaded Investment Retirement Accounts and the neutral cost recovery provision that has been included in the House's tax package.

On the point which our colleagues have taken issue with us, the definition of targeted tax benefit, we simply have a difference of opinion. We believe that the language in the Dole substitute amendment is clear. The reference to "similarly situated taxpayer," in our estimation, has to be taken to mean all taxpayers to whom the tax break does not apply or it is meaningless. For example, if Congress were to enact a special, \$10,000 deduction for Members of Congress, that tax break would be covered by the Dole amendment. The amendment would not require the comparison of the tax treatment of individual Members to all other Members, and find that no one was getting preferential treatment; instead, it would compare Members to all other taxpayers.

As we have already noted, many Senators, both in favor of and in opposition to the Bradley amendment, disagree with this analysis. They believe that the Dole amendment language would only give the President line-item veto authority over measures that grant preferential treatment to a taxpayer or group of taxpayers within a particular group of taxpayers. They do not believe that the standard of comparison would be all other taxpayers. Frankly, we do not see how this could work in practice. Congress could craft a very narrow tax break for just one individual--perhaps by saying that it applied to all individuals born on a certain day, living in a certain State, and having a certain name--and thereby deny the President line-item veto authority because it treated all such individuals equally under the tax code. We know very well that our colleagues do not intend this result with this language; they strongly favor line-item veto authority over tax loopholes.

With all due respect, therefore, we must conclude that our colleagues misunderstand the definition in the Dole amendment, and that their misunderstanding of that definition is actually in conflict with their intent on tax expenditures. We urge our colleagues to reconsider their position, and join us in opposing the motion to table the Bradley amendment.

Argument 2:

The definition in the Dole amendment for "targeted tax expenditure" can be read as being extremely narrow. For example, a tax break for an oil company might not be considered a tax break if all "similarly situated taxpayers," i.e., other oil companies, also get the same tax break. This definition is outrageous. At a time when we are stealing food from the mouths of hungry children, we should not be passing tax breaks for rich corporate giants. The Bradley amendment would remove any possibility of interpreting "similarly situated taxpayers" to apply only to those taxpayers who would benefit from a loophole. We therefore strongly oppose the motion to table.